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8 **Attorney for Defendant,**
9 **ISRAEL VALENCIA GARCIA**

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12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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16 **J & J SPORTS PRODUCTIONS, INC.) Case No. C08 00990 PVT**
17 **Plaintiff,)**
18 **v.)**
19 **ISRAEL VALENCIA GARCIA AND d/b/a)**
20 **LA COPA)**
21 **Defendants.)**
22 **)**
23 **)**
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26 **)**
27 **)**
28 **)**

**ANSWER OF ISRAEL VALENCIA
GARCIA d/b/a LA COPA**

Date:

Time:

Dept:

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22 **COMES NOW THE DEFENDANT, ISRAEL VALENCIA GARCIA, and answer the**
23 **Complaint of the Plaintiff, J & J PRODUCTIONS, INC. deny and allege as follows:**

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26 **The answering defendant has no information and belief as to Paragraphs 1, 2,**
27 **3, 4, 5, 6 and 7 of plaintiff's Complaint, and based on said lack of information and**
28 **belief, denies these allegations in their entirety.**

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The answering defendant has no information and belief as to Paragraphs 8, 9, 10, 11, 12, 13, 14, 15, and 16 of plaintiff's Complaint, and based on said lack of information and belief, denies these allegations in their entirety.

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The answering defendant has no information and belief as to Paragraphs 17, 18, 19, 20, and 21 of plaintiff's Complaint, and based on said lack of information and belief, denies these allegations in their entirety.

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The answering defendant has no information and belief as to Paragraph 22, 23, 24, and 25 of plaintiff's Complaint, and based on said lack of information and belief, denies these allegations in their entirety.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

This answering defendant alleges that the Complaint, and any and all causes of action, contentions and/or allegations contained therein, fails to set forth facts and allegations sufficient to constitute a cause of action against these answering defendants.

SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

This answering Defendant alleges that to the extent the plaintiff seeks equitable relief, plaintiff's inequitable conduct constitutes unclean hands and therefore bars the granting of relief to plaintiff herein.

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THIRD AFFIRMATIVE DEFENSE (Anticipatory Repudiation)

This answering defendant is informed and believe and on such information and belief allege that plaintiff's breached their contract, if any, with defendant, and that by reason of said breach of contract, defendant has been excused of their duties to perform all obligations set forth in said contract.

FOURTH AFFIRMATIVE DEFENSE (Offset)

This answering defendant alleges that he has suffered damage by reason of plaintiff's conduct; that they have the right of offset if any amount of money is owed to plaintiff or due plaintiff by way of damage.

FIFTH AFFIRMATIVE DEFENSE

(Waiver)

This answering defendant is informed and believes and on such information and belief alleges, that plaintiff was engaged in conduct that constitutes a waiver of their rights under the contract alleged in the complaint. By reason of said waiver, defendant is excused from further performance of the obligations under the alleged contract.

SIXTH AFFIRMATIVE DEFENSE (Release)

This answering defendant is alleging that plaintiff's actions constituted a full release and waiver by plaintiff of any and all claims which plaintiff may have against defendants.

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1 **SEVENTH AFFIRMATIVE DEFENSE**

2 **(In Pari Delicto)**

3 This answering defendant alleges that the plaintiff herein and in each and
4 every purported Cause of Action in the Complaint are barred because plaintiff has
5 engaged in acts and courses of conduct which rendered them in pari delicto.

6 **EIGHTH AFFIRMATIVE DEFENSE**

7 **(Equitable Estoppel)**

8 This answering defendant alleges that the plaintiff herein, and each and
9 every Cause of Action contained in the Complaint, are barred by reason of acts,
10 omissions, representations and courses of conduct by plaintiff by which
11 defendant was led to rely to their detriment, thereby barring, under the doctrine of
12 equitable estoppel, any Causes of Action asserted by the plaintiff.

13 **NINTH AFFIRMATIVE DEFENSE**

14 **(Statute of Frauds)**

15 This answering defendant alleges that the plaintiff is barred by the
16 provisions of Section 1624 of the Civil Code, i.e., the Statute of Frauds.

17 **TENTH AFFIRMATIVE DEFENSE**

18 **(Failure to Mitigate)**

19 This answering defendant is informed and believes and thereon alleges
20 that plaintiff has failed to mitigate and lessen damages, if any it sustained, as
21 required by law, and are barred from recovery by reason thereof against
22 defendants.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 **(Apportionment)**

25 This answering defendant is informed and believes and thereon allege that
26 the matters complained of in the Complaint were proximately caused, in whole or
27 in part, by the acts or omissions of a third party or parties or plaintiff.
28 Accordingly, the liability of the defendants and responsible parties, named or

1 unnamed, should be apportioned according to their respective degrees of fault or
2 other legal responsibility, and the liability, if any, of this answering defendant
3 should be reduced accordingly.

4 WHEREFORE, said defendants pray for judgment as follows:

5 1. That the plaintiff take nothing by their Complaint and
6 that said defendant have and recover its costs of suit herein from said plaintiff.

7 2. That in the event there is a finding of liability on the part of said
8 defendant, the Court then find and assess the proportionate liability of other
9 defendant herein and of plaintiffs.

10 3. For such other and further relief as the Court deems just and proper.

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12 Respectfully Submitted,

13 BUZO LAW OFFICES

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15 Dated: June 30, 2008

By: s// Alfred Buzo
ALFRED BUZO
Attorney for Defendant
ISRAEL VALENCIA GARCIA